GOVERNMENT OF INDIA
POWER
LOK SABHA

UNSTARRED QUESTION NO:1968
ANSWERED ON:05.08.2005
INVESTMENT IN POWER SECTOR
Vallabbhaneni Shri Balashowry

Will the Minister of POWER be pleased to state:

(a) whether the Government has notified investment norms for companies to enter into power distribution;

(b) if so, the details thereof; and

(c) if not, the reasons therefor?

Answer

THE MINISTER OF POWER (SHRI P.M. SAYEED)

(a) : Distribution of electricity falls in the domain of the State Governments and any decision to privatize distribution rests with the concerned State Government. No investment norms have been notified by the Central Government in this regard.

Sixth proviso to section 14 of the Electricity Act, 2003 provides that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, credit-worthiness, or code of conduct as may be prescribed by the Central Government, and no such applicant who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose.

Under the above provisions of the Act, Central Government has notified the Distribution of Electricity Licence (additional requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005 which contain conditions of requirement of capital investment for distribution network.

(b) : The details of these norms as contained in these rules are at Annexure.

(c) : Does not arise.

ANNEXURE

ANNEXURE REFERRED TO IN REPLY TO PART (b) OF UNSTARRED QUESTION NO. 1968 TO BE ANSWERED IN THE LOK SABHA ON 05.08.2005.

Requirements of capital adequacy and creditworthiness:

(1) The Appropriate Commission shall, upon receipt of an application for grant of licence for distribution of electricity under sub-section (1) of section 15 of the Electricity Act, 2003, decide the requirement of capital investment for distribution network after hearing the applicant and keeping in view the size of the area of supply and the service obligation within that area in terms of section 43.

(2) The applicant for grant of licence shall be required to satisfy the Appropriate Commission that on a norm of 30% equity on cost of investment as determined under sub-rule (1), he including the promoters, in case the applicant is a company, would be in a position to make available resources for such equity of the project on the basis of networth and generation of internal resources of his business including of promoters in the preceding three years after excluding his other committed investments.

Explanation :- For the grant of a licence for distribution of electricity within the same area in terms of sixth proviso to section 14 of the Act, the area falling within a Municipal Council or a Municipal Corporation as defined in the article 243(Q) of the Constitution of India or a revenue district shall be the minimum area of supply.

Requirement of Code of Conduct

The applicant for grant of licence shall satisfy the Appropriate Commission that he has not been found guilty or has not been disqualified under any of the following provisions within the last three years from the date of the application for the grant of licence:

(a) section 203, section 274, section 388B or section 397 of the Companies Act, 1956;

(b) section 276, section 276B, section 276BB, section 276C, section 277 or section 278 of the Income tax Act, 1961;

(c) section 15C, section 15G, section 15H or section 15HA of the Securities and Exchange Board of India Act 1992;

(d) clause (b), (bb), (bbb), (bbbb), (c) or (d) of sub-section (1) of section 9 of the Excise Act 1944;

(e) section 132 or section 135 of the Customs Act 1962,

and that the applicant is not a person in whose case licence was suspended under section 24 or revoked under section 19 of the Act, within the last three years from the date of application:

Provided that where the applicant is a company, it shall satisfy the Appropriate Commission in addition to provisions of this rule that no petition for winding up of the company or any other company of the same promoter has been admitted under section 443 (e) of the Companies Act, 1956 on the ground of its being unable to pay its debts.